

BEFORE THE DEPARTMENT OF AGRICULTURE
OF THE STATE OF MONTANA

In the matter of the amendment of ARM)
4.9.401 relating to raising the wheat and) NOTICE OF PUBLIC HEARINGS
barley assessment) ON PROPOSED AMENDMENT

TO: All Concerned Persons

1. On January 20, 2009, at 2:00 p.m. the Montana Department of Agriculture will hold a public hearing at the Holiday Inn's Big Hole Conference Room, 5500 Midland Road, Billings, Montana, to consider the proposed amendment of the above-stated rule.

2. On January 21, 2009, at 9:00 a.m. the Montana Department of Agriculture will hold a public hearing at the Cottonwood Inn, U.S. Highway 2E, Glasgow, Montana, to consider the proposed amendment of the above-stated rule.

3. On January 22, 2009 at 9:00 a.m. the Montana Department of Agriculture will hold a public hearing at the Wheat Building's Conference Room, 750th St SW, Great Falls, Montana, to consider the proposed amendment of the above-stated rule.

4. The Department of Agriculture will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process and need an alternative accessible format of this notice. If you require an accommodation, contact the Department of Agriculture no later than 5:00 p.m. on January 7, 2009, to advise us of the nature of the accommodation that you need. Please contact Cort Jensen at the Montana Department of Agriculture, 303 North Roberts, P.O. Box 200201, Helena, MT 59620-0201; phone: (406) 444-3144; fax: (406) 444-5409; or e-mail: agr@mt.gov.

5. The rule as proposed to be amended provides as follows, stricken matter interlined, new matter underlined:

4.9.401 WHEAT AND BARLEY ASSESSMENT AND REFUNDS (1) There shall be levied an assessment of:

(a) ~~12-1/2~~ 20 mills per bushel upon all wheat sold in the state of Montana;
and

(b) ~~20~~ 30 mills per hundredweight on all barley sold in the state of Montana.

(2) All assessments are subject to refund provided the following criteria are met:

(a) Application for assessment refund shall be in writing on forms provided by the committee.

(i) Forms will be furnished upon application to the Montana Wheat and Barley Committee, P.O. Box 3024, Great Falls, Montana 59403-3024.

(b) Written application for refund of the wheat or barley assessments must be submitted by the first seller of the wheat or barley or by an individual with the first seller's power of attorney.

(c) Refund application forms shall be submitted 30 days after the date of first sale and no later than 90 days from the date of the first sale of wheat or barley for which a refund is filed.

AUTH: 80-11-205, MCA

IMP: 80-11-206, MCA

Reason: The Wheat and Barley Committee (administratively attached to the Department of Agriculture) voted to raise the assessment as allowed by Title 80, MCA. The committee believes the increase is necessary to fully fund the needed wheat and barley research and to increase marketing.

Economic Impact: This increase will cause a .0075 cent increase on wheat and .01 cent increase on barley per cwt. This will result in approximately an additional \$900,000 per year to be utilized by the Wheat and Barley Committee based on a five year average estimate. This increase will affect approximately 5504 wheat farms and 2704 barley farms according to the 2002 farm census (2007 numbers are not yet available).

6. Concerned persons may submit their data, views, or arguments concerning the proposed action either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Cort Jensen at the Montana Department of Agriculture, 303 North Roberts, P.O. Box 200201, Helena, MT 59620-0201; fax: (406) 444-5409; or e-mail: agr@mt.gov. Any comments must be received no later than 5 p.m. on January 28, 2009.

7. The Department of Agriculture maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request which includes the name, e-mail, and mailing address of the person and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to Montana Department of Agriculture, 303 North Roberts, P.O. Box 200201, Helena, MT 59620-0201; fax: (406) 444-5409; or e-mail: agr@mt.gov or may be made by completing a request form at any rules hearing held by the Department of Agriculture.

8. An electronic copy of this Notice of Proposed Amendment is available through the department's web site at www.agr.mt.gov, under the Administrative Rules section. The department strives to make the electronic copy of the Notice conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the

department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

9. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

DEPARTMENT OF AGRICULTURE

/s/ Ron de Yong
Ron de Yong, Director

/s/ Cort Jensen
Cort Jensen, Rule Reviewer

Certified to the Secretary of State, December 15, 2008.